

REMARKS

Claims 1-7 stand rejected under 35 U.S.C. §102(e) over U. S. Patent Publication No. 2004/0030601 to Pond et al. ("Pond"). Claims 8, 21-25, and 27 stand rejected under 35 U.S.C. §103(a) over Pond in view of U. S. Patent Publication No. 2004/0093281 to Silverstein et al. ("Silverstein") and claims 26 and 28-32 stand rejected under 35 U.S.C. §103(a) over Pond in view of U. S. Patent Publication No. 2004/0186760 to Metzger ("Metzger").

Preliminary, applicants respectfully note that claims 28-39 have not been subject to any substantive rejection by the Examiner. The statement of rejection of claims 28-39 in the Office Action of November 15, 2010 is as follows:

Claims 28-32 recite similar limitations presented in claims 1-8, and 21-27 above. Therefore, claims 28-32 are rejected under the same rationale and same basis using the previously cited references: Pond, Silverstein, and Metzger...claims 33-39 recite similar limitations presented in claims 1-8 and 21-27 above. Therefore, claims 33-39 are rejected under the same rationale and same basis using the previously cited references: Pond, Silverstein, and Metzger. See Office Action dated November 15, 2010, pages 6-7.

Applicants disagree with the assertion that claims 28-39 recite limitations similar to those of claims 1-8 and 21-27. A comparison between claims 28 - 39 and 21 - 27 is presented below:

Claims 1-8, 21-27	Claims 28-39
1. (Original) A terminal for conducting an <i>ad libitum</i> financial transaction intermediated by a payment token, comprising: a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said <i>ad libitum</i> financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other	28. (New) A terminal for conducting a financial transaction, wherein the terminal comprises: an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, said RF transponder further configured to decode tag data corresponding to said one or more RFID

<p>than radio frequency; and</p> <p>an output device for confirming that a transaction is being performed.</p> <p>2. (Original) The terminal according to claim 1, further comprising a transaction register.</p> <p>3. (Original) The terminal according to claim 2, wherein said transaction register is operated by a salesperson.</p> <p>4. (Original) The terminal according to claim 1, further comprising a printer.</p> <p>5. (Original) The terminal according to claim 4, wherein said printer is configured to print a transaction receipt.</p> <p>6. (Original) The terminal according to claim 1, further comprising an imaging device.</p> <p>7. (Previously Presented) The terminal according to claim 6, wherein the imaging device</p>	<p>tags; and</p> <p>a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus;</p> <p>wherein responsive to said terminal completing a purchase of an article, said RF transponder is configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article.</p> <p>29. (New) The terminal of claim 28, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.</p> <p>30. (New) The terminal of claim 28, further configured to be detachably attached to a shopping cart.</p> <p>31. (New) The terminal of claim 28, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol.</p>
---	---

<p>comprises a bar code reader.</p> <p>8. (Original) A terminal for conducting a financial transaction, comprising:</p> <ul style="list-style-type: none">a radio frequency reader, said reader configured to read a selected one of a plurality of payment tokens employing dissimilar data formats, and to provide data corresponding to an elicited response from said selected one of a plurality of payment tokens employing dissimilar data formats;a memory for recording data and a machine-readable program, said memory in communication with said radio frequency reader;a communication module in communication with said radio frequency reader and said memory, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; anda processor module in communication with said memory and said radio frequency reader, said processor module configured by said machine-readable program to attempt to decode said data corresponding to said elicited response; <p>wherein, responsive to an indication that said processor module is not configured to perform</p>	<p>32. (New) The transaction terminal of claim 28 further configured, responsive to an interaction with a user, to initiate a payment transaction.</p> <p>33. (New) A terminal for conducting a financial transaction comprising:</p> <ul style="list-style-type: none">an RF transponder configured to communicate with one or more RFID tags attached to one or more articles placed into said shopping cart, said RF transponder further configured to decode tag data corresponding to said one or more RFID tags; anda communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus; <p>wherein said terminal is configured, responsive to an interaction with a user, to initiate a purchase transaction for at least one article placed in said shopping card;</p> <p>wherein said terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart; and</p> <p>wherein said terminal is configured to be detachably attached to a shopping cart.</p>
---	--

said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.

21. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token employing a data format particular to a specific commercial entry.

22. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a data format employing a data format particular to a specific retailer.

23. (Previously Presented) The terminal of claim 8, wherein the terminal is configured to read a payment token provided by a key fob.

24. (Previously Presented) The terminal of claim 8, further comprising an image reader and decoder for reading and decoding bar codes.

34. (New) The transaction terminal of claim 33, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.

35. (New) A terminal for conducting a financial transaction comprising:

an RF transponder configured to communicate with one or more RFID tags attached to one or more articles in a physical proximity of said RF transponder, by exchanging one or more bi-directional messages with said one or more RFID tags in order to decode tag data corresponding to said one or more RFID tags; and

a communication module in communication with said RF transponder, said communication module configured to communicate bidirectionally with a remote computer-based apparatus;

wherein responsive to an interaction with a user, said terminal is configured to read a transaction card to decode a transaction card data; and

wherein said one or more bi-directional messages are determined

<p>25. (Previously Presented) The terminal of claim 8, is capable of capturing an area electronic image representation.</p> <p>26. (Previously Presented) The terminal of claim 8, further comprises a signature capture pad.</p> <p>27. (Previously Presented) The terminal of claim 8, wherein the plurality of payment terms are issued by a plurality of commercial entities.</p>	<p>based on said transaction card data.</p> <p>36. (New) The terminal of claim 35, wherein responsive to an indication that said RF transponder is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for configuring said RF transponder to decode said tag data.</p> <p>37. (New) The terminal of claim 35, further configured to be detachably attached to a shopping cart.</p> <p>38. (New) The terminal of claim 35, wherein said RF transponder is configured to communicate to a plurality of RFID tags using a command response protocol.</p> <p>39. (New) The terminal of claim 35 further configured, responsive to an interaction with a user, to initiate a payment transaction.</p>
---	---

An omnibus rejection of the claims "on the references and for the reasons of record" is stereotypic and usually not informative and should therefore be avoided. This is especially true where certain claims have been rejected on one ground and other claims on another ground. *MPEP 707(d)* Further, a plurality of claims should never be grouped

together in a common rejection, unless that rejection is equally applicable to all claims in the group. *MPEP 707(d)*

Regarding exemplary claim elements of claims 28-39 in greater detail, claim 28 recites in combination with numerous additional elements, the elements of an RF transponder "configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article." If the Examiner wishes to maintain the rejection of claim 28 based on claim 28 being "similar" to claims 1-8 and 21-27, the Examiner is respectfully requested to explain where in claims 1-8 and 21-27 there are recited elements related to "configured to perform at least one of: modifying a tag data stored in an RFID tag attached to said purchased article, disabling an RFID tag attached to said purchased article" in the context as recited in claim 28.

Regarding exemplary claim elements of claims 28-39 in greater detail, claim 33 recites in combination with numerous additional elements, the elements of an RF transponder "wherein said terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart." If the Examiner wishes to maintain the rejection of claim 33 based on claim 33 being "similar" to claims 1-8 and 21-27, the Examiner is respectfully requested to explain where in claims 1-8 and 21-27 there are recited elements related to "wherein said terminal is configured to communicate to an exit sensor apparatus a confirmation of completing purchase transactions for all articles in said shopping cart" in the context as recited in claim 33.

Regarding exemplary claim elements of claims 28-39 in greater detail, claim 35 recites in combination with numerous additional elements, the elements of an RF transponder "wherein responsive to an interaction with a user, said terminal is configured to read a transaction card to decode a transaction card data; and wherein said one or more bi-directional messages are determined based on said transaction card data." If the

Examiner wishes to maintain the rejection of claim 35 based on claim 35 being "similar" to claims 1-8 and 21-27, the Examiner is respectfully requested to explain where in claims 1-8 and 21-27 there are recited elements related to "wherein responsive to an interaction with a user, said terminal is configured to read a transaction card to decode a transaction card data; and wherein said one or more bi-directional messages are determined based on said transaction card data" in the context as recited in claim 35.

Regarding claim 1, claim 1 recites among numerous elements, the elements of "a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency."

With respect to the highlighted combination, the Examiner relies on Pond, paragraphs 14 and 22.

Local Payments: These are payments that are processed at the register or Point-of-Sale (POS) terminal or station using a proximity technology. One example of such proximity is Radio Frequency Identification (RFID), which will be further described below. Other technologies which may be used examples are Bluetooth (BT), Micro-impulse Radar (MIR), UltraWide Band (UWB), Infrared (IR) and the like. *U. S. Patent Publication No. . 2004/0030601 A1, Paragraph 0005.*

Assisted transactions are different in that the customer's payment device leaves the customer's possession. Also, the transaction value initiated at the close of the sale may be different than the final value because additional charges, such as tips and the like may be added to the transaction value. Having the payment device leave the customer's possession increases the danger of identity theft. For example, the information on a magnetic strip of a credit card may be copied by a waiter using a portable reader and used many times for bogus transactions. *U.S. Patent Publication No. 2004/0030601 A1, Paragraph 0014.*

Automatic identification and data capture technologies are increasingly being used to identify and track items. Radio Frequency Identification (RFID) transponders, also known as tags or tokens, provide a means of obtaining data without direct contact such as is needed with magnetic strip or bar code technology. Such transponder devices have been around for some time and have been standardized - ISO14443 A/B RFID standard. *U.S. Pat. No. 3,713,148* issued to Cardullo et al. on Jan. 23, 1973, and incorporated herein by reference, describes a transponder, which includes a changeable or writable memory. An RFID system consists of a transponder, (also referred to as tag or token), with a unique electronic serial number and a reader device also referred to as an interrogator. The tags are self-contained in hermetically sealed capsules or laminates requiring no external power since they get power by rectifying the energy in a field created by the interrogator and storing the energy in capacitive-type circuitry. Nevertheless, some transponders may be powered with small batteries. RFID tags come in a

variety of embodiments from a thin, flat and flexible form-factor (thin type) to small capsules (cylindrical type). An example of a thin form-factor is described in U.S. Pat. No. 5,528,222 issued to Moskowitz et al. on Jun. 18, 1996. Although the term "radio frequency" is used, other parts of the electromagnetic spectrum may be used to create the energy field. UHF, microwave and millimeter wave sources may be used by the interrogator depending on the distance between the interrogator and the transponder and material to be penetrated. Commercial examples of RFID transponders are the Texas Instruments' Registration and Information Systems (TIRIS) line of transponders available from Texas Instruments (Dallas, Tex.; www.ti.com). U.S. Patent Publication No. 2004/0030601 A1, Paragraph 0022.

The applicant has reviewed the teachings of paragraphs 14 and 22 and can find no disclosure related to "a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency." Specifically, in the relied on sections of Pond, there is at least no disclosure of a radio frequency reader configured to read a "radio frequency payment token" and no disclosure of the radio frequency reader being "devoid of a capability similar to reader employing reader technology other than radio frequency." There is also no disclosure in Pond of a reader configured to read a radio frequency payment token presented as a payment for an *ad libitum* financial transaction. In the relied on sections of Pond relied on for such elements, there is mentioned references to Radio Frequency Identification ("RFID") generally but no reference to the highlighted specific combination. Support for the term "*ad libitum*" in applicants' disclosure is provided in part by paragraph [0152] of U. S. Patent Publication No. 2005/0234778, corresponding to the present application.

As used herein, an *ad libitum* financial transaction is used to denote a financial transaction which is neither a transaction using a payment token issued for a particular transaction type, such as purchasing transportation services, nor a financial transaction in which a proprietary financial token that is accepted for payment by those having a business relationship, such as being a dealer, with the issuer of the proprietary financial token. Expressed in an alternative manner, as used herein, an *ad libitum* financial transaction is one in which a purchaser is free to present a payment token issued by a first entity as payment to a second entity for a good or service of the purchaser's election, where the first and second entities are not restricted to having an ownership or dealership relation with each other, but participate within the financial systems generally. The prototypical *ad libitum* financial transaction is a purchaser buying whatever good or service he or she desires with cash from a vendor of his or her choosing. Examples of *ad libitum* financial transactions mediated with a payment token are the purchase of goods and services as elected by a purchaser who pays with a conventional credit or debit card issued by a financial institution, with a check and a bank card, or with a prepaid gift card or

coupon, wherein the purchaser can in principle use the payment token for purchases at a plurality of unrelated vendors. *U. S. Patent Publication No. 2005/0234778, Paragraph 0152.*

If the Examiner wishes to maintain the rejection of claim 1, the Examiner is respectfully requested to explain where in the relied on reference there is a disclosure relating to “a radio frequency reader, said reader configured to read a radio frequency payment token presented as a payment medium for said *ad libitum* financial transaction, said radio frequency reader devoid of a capability to simulate a reader employing reader technology other than radio frequency” in the context as recited in claim 1.

Regarding claim 8, claim 8 recites in combination with numerous additional elements, the elements of “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.”

With regard to the highlighted elements of claim 8, the Examiner relies on paragraphs 71 and 233 of Silverstein.

FIG. 1a provides a graphic overview of the system architecture of an exemplary remote purchasing system 100 consistent with the present invention. As shown, a plurality of clients 101 are connected, e.g., using HTTP and standard web browsers, to a system back end 102, with a webserver 103 acting as the core system. The clients 101 may include, e.g., end users 104, venues 105, third-party marketers 106, members (not shown), and system administrators 107. The system back end 102 includes a database 108 (e.g., accessible via SQL) and a plurality of modules 109 in communication with the webserver 103 (e.g., via API calls), which may include, e.g., payment processing 110, billing 111, messaging 121, and third-party plugins 122. *U.S. Patent Publication No. 2004/0093281 A1, Paragraph 0071.*

The invention as described herein may be embodied in a computer residing on a network transaction server system, and input/output access to the invention may comprise appropriate hardware and software (e.g., personal and/or mainframe computers provisioned with Internet wide area network communications hardware and software (e.g., CGI-based, FTP, Netscape Navigator™ or Microsoft Internet Explorer™ HTML Internet browser software, and/or direct real-time or near-real-time TCP/IP interfaces accessing real-time TCP/IP sockets) for permitting human users to send and receive data, or to allow unattended execution of various operations of the invention, in real-time and/or batch-type transactions. Likewise, the system of the present invention may be a remote Internet-based server accessible through conventional communications channels (e.g., conventional telecommunications, broadband communications, wireless communications) using conventional browser software (e.g., Netscape Navigator™ or Microsoft Internet Explorer™). Thus, the present invention may be appropriately adapted to include such communication functionality and Internet browsing ability. Additionally, those skilled in the art will recognize that the various components of the server system of the present

invention may be remote from one another, and may further comprise appropriate communications hardware/software and/or LAN/WAN hardware and/or software to accomplish the functionality herein described. *U.S. Patent Publication No. 2004/0093281 A1, Paragraph 0233.*

The applicants have reviewed the teachings of the relied on sections of Silverstein and can find no disclosure relating to “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data.” While the referenced disclosure of Silverstein references client server systems in general, there is no disclosure in the relied on sections of Silverstein relating to “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data” in the context as recited in claim 8. If the Examiner wishes to maintain the rejection over Silverstein, the Examiner is respectfully requested to explain where in the relied on reference there is disclosure relating to “wherein, responsive to an indication that said processor module is not configured to perform said decoding correctly, said communication module is configured to request from said remote computer-based apparatus at least one machine-readable instruction for properly configuring said processor module to decode said data” in the context as recited in claim 8.

While the applicants herein may have highlighted a particular claim element of a claim for purposes of demonstrating an insufficiency of an examination on the part of an Examiner, the applicants highlighting of a particular claim element for such limited purpose should not be taken to indicate that the applicants have asserted the argument of patentability that a particular claim element constitutes the sole basis for patentability out of the context of additional combinations of elements of the claim or claims in which it is present.

Regarding the claims discussed herein, the applicants' selective treatment and emphasis of independent claims of the application should not be taken as an indication that the applicants believe that the Examiner's dependent claim rejections are otherwise sufficient. Applicants expressly reserve the right to present arguments traversing the propriety of the dependent claim rejections later in the prosecution of this or another application.

It is believed that all of the pending claims have been addressed. However, failure to address a specific rejection, issue, or comment in the present file history does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made in the present file history are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in the present file history should be construed as an intent to concede any issue with regard to any claim, except as specifically stated, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Accordingly, in view of the above amendments and remarks, applicants believe all of the claims of the present application to be in condition for allowance and respectfully request reconsideration and passage to allowance of the application.

If the Examiner believes that contact with applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call applicants' representative at the phone number listed below.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0289, under Order No. 283_412 from which the undersigned is authorized to draw.

Dated: February 15, 2011

Respectfully submitted,

Electronic signature: /George S. Blasiak/
George S. Blasiak
Registration No.: 37,283
Marjama Muldoon Blasiak & Sullivan LLP
250 South Clinton Street
Suite 300
Syracuse, New York 13202
(315) 425-9000
Customer No.: 93689

DA/GSB/bs